

CALIFORNIA COASTAL COMMISSION

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Hearing Date: June 11, 2003
Commission Action:



STAFF REPORT: APPEAL
DE NOVO COASTAL DEVELOPMENT PERMIT

APPEAL NUMBER: A-5-MNB-03-075

APPLICANT: Association of Volleyball Professionals (AVP)

AGENT: Matt Gage, AVP Tour Director

PROJECT LOCATION: Beach area south of the Manhattan Beach Pier and Pier Public Beach Parking Lots, City of Manhattan Beach, Los Angeles County.

PROJECT DESCRIPTION: The 2003 Manhattan Beach Open Volleyball Tournament on August 7-10, 2003, including set-up (commencing August 4) and take-down of the tents, bleachers, restrooms and stage associated with the event.

APPELLANTS: William Victor & Harry Ford

SUMMARY OF STAFF RECOMMENDATION

The proposed temporary event is a professional volleyball tournament. The applicant is requesting a coastal development permit to occupy for nine days, during mid-August, a three-acre portion of one of the most popular beaches in Southern California. The proposal also includes a request to reserve, for the exclusive use of the applicant and its sponsors, three of the four public beach parking lots located at the base of the Manhattan Beach Pier. As proposed, the pier would be occupied by bleacher seating for 400 persons, and the bleachers on the beach would seat 3,500 persons. Admission to this event is free to the general public. Attendance to the event is expected to reach 6,000 persons a day.

Finding a parking space in Manhattan Beach during the summer is always a challenge. It will be even more challenging during the proposed event because of the increased demand for parking and the reduction in the parking supply resulting from the event's occupation of part of the public beach parking supply. The lack of sufficient parking and the resultant traffic congestion will adversely affect the public's ability to access the shoreline. In order to mitigate the adverse impacts to public access caused by the proposed event and its exclusive use of public beach parking, the applicant is proposing to provide a remote parking supply and to operate a beach shuttle bus.

The staff recommends that the Commission, after public hearing, **approve with conditions** a de novo coastal development permit for the proposed event and the associated development. The recommended special conditions of approval limit the applicant's use of the public beach parking supply and require that the pier remain clear of obstructions (i.e. bleachers, vehicles and tents). In order to replace the public parking spaces utilized by the event organizers, and to offset the additional parking demands generated by the proposed event, the special conditions require the applicant to provide the proposed remote public parking supply and a free public shuttle bus service to the beach. Special conditions also ensure free public access to the event area, require a fifty-foot setback from the water, protect public access on the pier, bike path and The Strand, and require the removal of all trash, debris and temporary improvements

A-5-MNB-03-075
2003 Manhattan Beach Open
Page 2

from the beach by 6:00 p.m. on Tuesday, August 12, 2003. Please see **Page Two for the motion and resolution** necessary to carry out the staff recommendation.

SUBSTANTIVE FILE DOCUMENTS:

1. Coastal Commission Guidelines for the Exclusion of Temporary Events from Coastal Development Permit Requirements, Adopted 1/12/93.
2. City of Manhattan Beach Local Coastal Program (LCP), certified 5/12/94.
3. Coastal Commission Substantial Issue Determination for Appeal No. A-5-MNB-03-075 (2003 Manhattan Beach Open), Staff Report dated 3/20/03.
4. City of Manhattan Beach Local Coastal Development Permit No. CA 03-1 (2003 Manhattan Beach Open).
5. City of Manhattan Beach Agreement with the Association of Volleyball Professionals to Co-sponsor the 2003 Manhattan Beach Open (Exhibit #6).
6. City of Manhattan Beach LCP Amendment Request No. 1A-97, Rejected 5/13/97.
7. City of Manhattan Beach LCP Amendment Request No. 3-97, Not Certified.
8. Appeal/Permit No. A-5-MNB-97-84 (1997 Manhattan Beach Open), 5/13/97.
9. Appeal No. A-5-MNB-99-111 (1999 Manhattan Beach Open), NSI 6/11/99.
10. Appeal No. A-5-MNB-01-343 (2001 Manhattan Beach Open), NSI 10/8/01.

STAFF NOTE:

The proposed event is located in the City of Manhattan Beach, a local jurisdiction that issues local coastal development permits pursuant to the certified City of Manhattan Beach Local Coastal Program (LCP). The application for the proposed event is before the Commission as the result of two appeals of the City-approved local coastal development permit (CA 03-1) for the proposed event. On April 8, 2003, the Commission found that the appeals raise a **substantial issue** in regards to the locally approved event's conformity with the City of Manhattan Beach Certified LCP and the public access policies of the Coastal Act.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application with special conditions:

MOTION: *"I move that the Commission approve Coastal Development Permit A-5-MNB-03-075 pursuant to the staff recommendation."*

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

I. Resolution: Approval with Conditions

The Commission hereby approves, subject to the conditions below, a coastal development permit on the grounds that the development as conditioned will be in conformity with the certified Manhattan Beach Local Coastal Program and the public access and recreation policies of the Coastal Act, and will not have any significant

adverse effects on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions

1. Permit Compliance

Coastal Development Permit A-5-MNB-03-075 permits the 2003 Manhattan Beach Open Volleyball Tournament on August 7-10, 2003, and associated development, with set-up commencing on Monday, August 4, 2003. Any proposed change in the approved event, site plan, parking plan, shuttle bus plan, or any other deviation from the approved development as conditioned, shall be submitted for review by the Executive Director to determine whether an amendment to this coastal development permit is necessary pursuant to the requirements of the Coastal Act and the California Code of Regulations. If the Executive Director determines that an amendment is necessary, no changes shall be made until the permit is amended by the Commission and issued by the Executive Director.

2. Local Government Approval

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act, including the terms and conditions of the City of Manhattan Beach Agreement with the Association of Volleyball Professionals to Co-sponsor the 2003 Manhattan Beach Open. In the event of conflict between the terms

and conditions imposed by the local government and those of this coastal development permit, the terms and conditions of Coastal Development Permit A5-MNB-03-075 shall prevail.

3. Fees for Preferred Courtside Seating

No admission fee shall be charged to attend the 2003 Manhattan Beach Open Volleyball Tournament. The general public shall be provided with free public access to viewing and seating areas within the event area. At least 76% of the total seating capacity at each court (including bleachers, sand areas and viewing platforms/risers surrounding each court) shall be available to the general public for free on a first-come, first-served basis. The remaining 24% (or less) of the total seating capacity at each court (including bleachers, sand areas and viewing platforms/risers surrounding each court) may be reserved for preferred Beach Club/VIP seating and/or access. The applicant is permitted to collect fees to access to the preferred seating areas.

4. Parking and Traffic Management and Beach Shuttle Bus Plan

The applicant shall implement a traffic and parking management plan and free beach shuttle bus plan consistent with the terms of this condition and as proposed and described in the letter dated May 19, 2003 and attached as Exhibit #4 of the **staff report dated May 22, 2003**. In the event of any conflict between the applicant's proposed plans and the terms of this condition, the terms of this condition shall prevail. The applicant shall implement the traffic and parking plan and shuttle bus plan as follows:

- a) **Handicapped Parking.** All of the existing handicapped parking spaces in the upper and lower pier parking lots, and along Manhattan Beach Boulevard, are reserved for use by persons with vehicles displaying valid handicapped placards. Vehicles associated with the applicant or the event shall not reserve or occupy any handicapped parking spaces unless such vehicle displays a valid handicapped placard. In the event that all handicapped parking spaces in the upper and lower pier parking lots and along Manhattan Beach Boulevard become occupied, the applicant shall then accommodate any additional handicapped persons' vehicles in unoccupied non-handicapped spaces in the upper and lower pier parking lots.
- b) **Public Beach Parking Lots.** All public parking spaces within the upper and lower pier parking lots and along Manhattan Beach Boulevard shall be reserved for the general public on a first-come, first served basis, except as follows:
 - i) During set-up, commencing on Monday, August 4 and continuing through Wednesday, August 6, 2003, the applicant shall be permitted exclusive use of only the lower pier parking lot located on the south side of Manhattan Beach Boulevard.

- ii) During the tournament on Thursday, August 7 and continuing through Sunday, August 10, 2003, the applicant shall be permitted exclusive use of only the two lower pier parking lots. Both upper pier parking lots and the parking spaces along Manhattan Beach Boulevard shall be available to the general public on a first-come, first served basis until they are filled to capacity.
- iii) On Monday and Tuesday, August 11-12, 2003, while the event site is dismantled and cleared of trash and other debris, the applicant shall have exclusive use of only the lower pier parking lot located on the south side of Manhattan Beach Boulevard.
- c) **Remote Parking Supply.** Commencing on Thursday, August 7 and continuing through Sunday, August 10, 2003, the applicant shall provide the free remote parking supply as proposed (Northrop Grumman parking lot) for both AVP guests and the general public (to replace the parking reserved in the lower pier parking lots and to provide parking to meet the increased demands generated during the tournament). The free remote parking shall be available for both the general public and event spectators. The applicant shall monitor and record the number of persons and cars occupying the remote parking lot on each day and provide the City and the Commission with the data. The vehicle and person counts can be used to make informed decisions for future events.
- d) **Shuttle Bus Service.** Commencing on Thursday, August 7 and continuing through Sunday, August 10, 2003, the applicant shall provide a free shuttle bus service to transport both AVP guests and the general public between the remote parking lot (Northrop Grumman parking lot) and the downtown drop-off point (Von's Supermarket). At least two shuttle buses, each holding at least fifty persons, shall run continuously between the drop-off point and the remote parking lot each day (Thursday through Sunday) between the hours of 7 a.m. to 7 p.m. One or both of the shuttle buses shall accommodate wheelchairs and handicapped persons. The "headway" time between shuttle service pick-ups shall be not more than 15 minutes. The free shuttle service shall be available for both the general public and event spectators.
- e) **Signage.** Commencing on Monday, August 4, 2003, the applicant shall provide conspicuously posted on-street informational signs and banners to direct visitors to the free remote parking lot and inform them of the free beach shuttle bus stops. The signs and banners shall also inform the public of the availability of a free bus shuttle for both event spectators and the general public. No fewer than ten informational signs shall be placed along major intersections leading into the City (i.e., I-405 Inglewood exit, Manhattan Beach Boulevard, Highland Avenue, Manhattan Avenue, Valley Drive, Ardmore Avenue, and Aviation Boulevard). The signs and banners shall be no smaller than 2' x 3'. All signage shall be retrieved and properly disposed on Monday, August 11, 2003.

- f) **Advertisements.** Commencing on Monday, August 4, 2003, the applicant shall provide no fewer than eight radio announcements and three newspaper advertisement within the Los Angeles County area informing the public of the availability of the free remote parking supply and the free beach shuttle bus service. These stations shall represent all diverse ethnic and cultural Los Angeles radio markets and shall include Spanish language, youth and news stations.

5. Manhattan Beach Pier

The event shall not interfere with the public's access to and use of the Manhattan Beach Pier. Pedestrian access to and from the pier shall remain open and unobstructed at all times. No bleachers, tents, vehicles (except for emergency vehicles), fences, barriers or other structures shall be placed on the pier. The applicant shall monitor the pier in order to prevent any encroachments by event sponsors and vendors.

6. Bicycle Path and The Strand

The event shall not interfere with the public's use of the bicycle path and The Strand, a public walkway that parallels the beach. The bicycle path and The Strand shall remain open and unobstructed. No fences, vehicles, materials or structures shall be parked or placed on the bicycle path or The Strand. The applicant shall monitor The Strand and bicycle path in order to prevent any encroachments by event sponsors and vendors.

7. Public Access to and Along the Water

The proposed event, and all associated development, shall not encroach any closer to the shoreline than fifty feet (50'), measured from the highest water mark.

8. Removal of Temporary Improvements

All temporary improvements permitted herein shall be removed in their entirety and the site restored to its pre-existing condition by no later than 6:00 p.m. Tuesday, August 12, 2003.

9. Protection of Water Quality

By acceptance of this coastal development permit, the applicant agrees to remove and legally dispose of all trash, waste, oil, grease, and other materials that may be deposited on-site incidental to the volleyball tournament, associated activities, and the general public's use of the event site, pier and adjacent parking facilities. Such clean-up and disposal shall be completed at the end of each day's activities, with a final clean-up and inspection on Tuesday, August 12, 2003.

IV. Findings and Declarations

The Commission hereby finds and declares:

A. Project Description and Event History

The applicant (AVP) proposes to conduct the 2003 Manhattan Beach Open Volleyball Tournament on the public beach area situated on the south side of the Manhattan Beach Pier (Exhibit #2). The applicant is also requesting approval to reserve and use the public beach parking facilities that are situated at the base of the pier for parking by AVP staff and its sponsors (Exhibit #4, p.6). The proposed tournament would be held on Thursday, August 7 through Sunday, August 10, 2003, with set-up starting on Monday, August 4th.

The site of the annual Manhattan Beach Open Volleyball Tournament is a three-acre sandy beach area (450' x 300') located on the south side of the Manhattan Beach Pier (Exhibit #2). Approximately 24 public volleyball courts currently occupy the event site. There will not be a fence installed around the perimeter of the event area, and the proposed development and activities would not block public access to the pier or to the shoreline. The proposed site plan includes restrooms and interactive areas for the public, tents for the competitors and event sponsors, inflatable advertising signs, and a stage at center court (Exhibit #3, p.1).

The City of Manhattan Beach and the AVP have a written agreement (City Agreement) that includes the terms, obligations and restrictions for each to co-sponsor and operate the proposed 2003 tournament. [See Exhibit #6: *City of Manhattan Beach Agreement with the Association of Volleyball Professionals to Co-sponsor the 2003 Manhattan Beach Open.*] The City Agreement states that, "No admission may be charged" and that "the event shall not exceed a total of 4,500 seats" (Exhibit #6, p.2). The City Agreement requires that the AVP provide a shuttle bus service on Saturday and Sunday of the event, and to complete all take-down activities and remove all equipment from the beach before by 6 p.m. Tuesday, August 12, 2003 (Exhibit #6, p.4). The City agreement also lists the City's responsibilities, including the reservation of certain public beach parking facilities for the event (Exhibit #6, ps.2&3).

In a letter dated May 19, 2003, the AVP provides additional information regarding its plans for the proposed event (Exhibit #4). The AVP letter states that the center court would have seating capacity of 3,100 persons on bleachers and risers as shown on the site plan that is attached to this staff report as Exhibit #3. Another 400 bleacher seats are proposed to be placed on the Manhattan Beach Pier, to overlook center court. Additional bleachers would be installed around a few of the eleven outside courts (Exhibit #3, p.1). According to the AVP, all seating would be available free of charge to the general public, except for 620 seats that would be reserved as preferred Beach Club/VIP seats. The reserved seating area, situated on the center court risers and in the top five rows of the center court's southern bleacher, would be available only to VIPs and persons who pay a fee to join the AVP Beach Club (Exhibit #5).

With the cooperation of the City, the AVP is proposing to implement a traffic and parking management plan and a shuttle bus service (Exhibit #4, ps.2-7). The Northrop Grumman (formerly TRW) parking lot is proposed to be the event's main parking supply (over 1,500

parking spaces) and shuttle bus pick-up point (Exhibit #1). As proposed, three of the four public beach parking lots at the base of the pier would be reserved for television and AVP trucks, event staff, and sponsors' parking (Exhibit #4, p.6). Parking for VIPs would be provided at a nearby church (American Martyrs), or if necessary, at the Northrop Grumman parking lot. The shuttle bus drop-off point would be located three blocks inland of the pier and beach, near the Von's Supermarket (Exhibit #4, p.7). Two shuttle buses, each with a capacity for at least fifty people, are proposed to run continuously on Saturday and Sunday of the proposed tournament. The applicant had previously proposed to run the shuttle bus service on Friday too (August 8, 2003), but the Friday shuttle bus service was deleted from the AVP's most recent plan dated May 19, 2003.

Event History

The annual Manhattan Beach Open Volleyball Tournament has a long tradition that dates back to 1960. During all past events, the general public has been able to view the event on a first-come, first-served basis from the sand, the temporary bleachers, or from standing areas the pier. No admission fee has been required for spectators, and the bleachers have always been open to the general public. Even though the event area can get quite congested, the City maintains public access to the pier and along the water, and the bicycle path is kept open (bikes must be walked).

The event has always been located on the south side of the Manhattan Beach Pier in a sandy area owned and operated by the Los Angeles County Department of Beaches and Harbors (Exhibit #2). The event area is occupied by several sets of sand volleyball courts used for public recreation. Although the beach is actually owned by Los Angeles County, it falls within the City limits of Manhattan Beach and the within the jurisdiction of the certified City of Manhattan Beach LCP. As property owners, the Los Angeles County Department of Beaches and Harbors regulates the many special events that occur on the beach. The Manhattan Beach Open is one of several annual volleyball tournaments and other special events that occur on the beach each summer with the permission of the Los Angeles County Department of Beaches and Harbors.

As previously stated, the annual Manhattan Beach Open Volleyball Tournament has a long tradition that dates back to 1960. Even though there are no provisions in the certified LCP that allow the City to exempt temporary events on the beach from permit requirements, the first local coastal development permit for the annual event was not approved until 1997 when the City approved Local Coastal Development Permit No. 10-97.¹ Prior to 1997, the City asserted that the event did not fall under the definition of development as defined in the certified LCP.

On March 18, 1997, the City of Manhattan beach approved Local Coastal Development Permit No. 10-97 for the 1997 Miller Lite Manhattan Beach Open Volleyball Tournament. The City required the VP to apply for a local coastal development permit for the volleyball tournament because the AVP was proposing to charge admission fees to spectators. The City's approval would have allowed the AVP, for the first time ever, to sell tickets to all of the seating for the

¹ The Commission certified the City of Manhattan Beach LCP on May 12, 1994.

final matches of the Manhattan Beach Open. Subsequent to the City's approval of the local coastal development permit, three appeals of the local permit were submitted to the Coastal Commission. The primary ground of the appeal was that the proposed event, with the City-approved admission fees for spectators, was inconsistent with the certified LCP's Open Space (OS) land use designation for the beach. The certified OS land use designation permits "sporting events for which no admission is charged", but does not permit sporting events for which admission is charged.

On May 13, 1997, the Commission found that a substantial issue existed with respect to the grounds of the appeals (See Appeal A-5-MNB-97-84). Also on May 13, 1997, the Commission held a public hearing on a City of Manhattan Beach LCP amendment request that would have added "sporting events for which admission is charged" to the OS permitted use list (See LCP Amendment Request No. 1A-97). On May 13, 1997, the Commission rejected Manhattan Beach LCP Amendment Request No. 1A-97, and approved the de novo permit for the 1997 event as a free event (See Appeal A-5-MNB-97-84). The Commission denied the applicants' request to charge admission fees to spectators. Ultimately, Coastal Development Permit A-5-MNB-97-84 was never issued, and the 1997 Miller Lite Manhattan Beach Open was cancelled.

In its action on Appeal A-5-MNB-97-84 the Commission found that, pursuant to the certified LCP, a coastal development permit was required for the annual volleyball tournament because it falls within the definition of development contained in Section A.96.030 of the certified LCP and Section 30106 of the Coastal Act ("Development" means...the placement or erection of any solid material or structure;...change in the intensity of use of water, or of access thereto;...), and that the certified LCP contains no provision for the exclusion or exemption of the proposed event. Furthermore, admission fees for spectators may not be charged for sporting events on the beach because such a use is not permitted by the certified LCP.

In October of 1997, the City submitted LCP Amendment Request No. 3-97 to the Commission in an attempt to insert new provisions into the certified LCP to permit and exempt temporary events on the beach. As stated above, there currently are no provisions in the LCP that allow temporary events on the beach to be exempted from permit requirements, regardless of size or type of event. On February 3, 1998, the Commission approved LCP Amendment Request No. 3-97 with suggested modifications that would have laid out specific LCP standards for the exempting and permitting of temporary events on the beach. The City, however, declined to accept the Commission's suggested modifications, and the Commission's action on LCP Amendment Request No. 3-97 has lapsed. Therefore, there are still no provisions in the Manhattan Beach certified LCP to exempt temporary events on the beach.

There is no record of the Manhattan Beach Open Volleyball Tournament being held or permitted in 1998.

In 1999, the City and the AVP significantly scaled down from prior years the size and scale of the Manhattan Beach Open Volleyball Tournament. The spectator admission fees proposed and ultimately denied in 1997 were not proposed again. In order to enhance beach access for event visitors and other beach goers, the AVP provided a shuttle service to and from the

proposed event on Saturday and Sunday. The August 28-29, 1999 event, approved by City of Manhattan Beach Local Coastal Development Permit No. 99-4, included:

1. No paid seating.
2. Reduction in the total number of bleacher seats to a maximum of 1,500.
3. Use of 45 parking spaces in the lower pier public parking lots.
4. Reduction in the number of tournament days from three to two.
5. Reduction in the number of days needed for set-up (3) and take-down (1).
6. Six tents less than the 1996 event.
7. An AVP agreement to pay the City's direct costs for the event.

City of Manhattan Beach Local Coastal Development Permit No. 99-4 was appealed to the Coastal Commission (See Appeal A-5-MNB-99-111). On June 11, 1999, the Commission found that no substantial issue existed with the City's approval of Local Coastal Development Permit No. 99-4 for the 1999 Manhattan Beach Open because it conformed entirely with the certified Manhattan Beach LCP and the public access policies of the Coastal Act. The 1999 Manhattan Beach Open Volleyball Tournament was held as scheduled.

In 2000, the Manhattan Beach Open Volleyball Tournament was conducted without the benefit of a local coastal development permit because the City determined that a coastal development permit is required only if bleachers are proposed as part of the event.

The 2001 Manhattan Beach Open Volleyball Tournament (held August 23-26, 2001) approved by Local Coastal Development Permit No. CA 01-20 included:

1. No authorization for any paid seating.
2. Maximum of 1,500 bleacher seats (increased to 3,000 by an amendment).
3. Use of 45 parking spaces in the lower pier public parking lots.
4. Four tournament days (August 23-26, 2001).
5. Set-up starts Wednesday, August 22 & takedown completed Monday, August 27.
6. Tents and stage.
7. Shuttle service on Saturday and Sunday.

City of Manhattan Beach Local Coastal Development Permit No. 01-20 was not appealed to the Coastal Commission. A subsequent permit amendment, however, was appealed to the Coastal Commission (See Appeal A-5-MNB-01-343). The subject of the appeal, Local Coastal Development Permit Amendment No. CA 01-31, amended the event layout that had been previously approved as part of Local Coastal Development Permit No. CA 01-20. The City deleted its 1,500-person limit on bleacher capacity and approved the permit amendment to increase the bleacher capacity to a total of 3,000 persons. On October 8, 2001, after the 2001 tournament was already over, the Commission found that no substantial issue existed with the City's approval of Local Coastal Development Permit Amendment No. CA 01-31.

The 2002 Manhattan Beach Open Volleyball Tournament (August 6-13, 2002) was approved by Local Coastal Development Permit No. CA 02-09. The 2002 event included free public

admission and 4,500 bleacher seats. Local Coastal Development Permit No. 02-09 was not appealed to the Coastal Commission.

B. Substantial Issues

This de novo coastal development permit application is before the Commission as the result of two appeals of the local coastal development permit (No. CA 03-1) that the City had approved for the proposed 2003 Manhattan Beach Open Volleyball Tournament. The appellants asserted that the proposed event would obstruct public access to the beach, block public views, add to parking problems and traffic congestion, and create noise that would interfere with enjoyment of the beach. The appellants also asserted that the AVP's preferred Beach Club/VIP seating areas, proposed around the center court, are a type of admission fee which is prohibited by the certified Local Coastal Program's (LCP) Open Space (OS) land use designation for the beach. The LCP's OS land use designation permits "sporting events for which no admission is charged", but does not permit sporting events for which admission is charged.

On April 8, 2003, the Commission found that the appeals did raise a substantial issue in regards to the locally approved event's conformity with the City of Manhattan Beach certified LCP and the public access policies of the Coastal Act. The substantial issues identified by the Commission on April 8, 2003, are: the public access impacts associated with proposed event's exclusive use of the beach area, the question of whether the AVP's restricted Beach Club/VIP seating area constitutes a charge for admission or not, the public access impacts associated with the proposed bleachers on the pier, and the traffic and parking issues as they relate to public access to the shoreline area. Each of these substantial issues is addressed below in relation to the standards of the City of Manhattan Beach certified LCP and the public access and recreation policies of the Coastal Act. The certified LCP and the public access and recreation policies of the Coastal Act are the standard of review for this coastal development permit application.

C. Exclusive Use of the Beach

The exclusive use of public beaches by special events, and the associated limitations on public access and recreation, has always been an issue of prime importance to the Commission. The following Coastal Act and City of Manhattan Beach LCP policies protect the public's right to public access and recreation opportunities:

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states, in part:

- (a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...

Section 30213 of the Coastal Act states:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30220 of the Coastal Act states:

Coastal areas suited for water-oriented recreational activities that cannot be readily provided at inland water areas shall be protected for such uses.

Section 30221 of the Coastal Act states:

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

The certified Manhattan Beach LCP contains the following policies that protect public access and recreation opportunities:

POLICY 1.A.2: *The City shall encourage, maintain, and implement safe and efficient traffic flow patterns to permit sufficient beach and parking access.*

POLICY I.A.8: *The City shall maintain visible signage to El Porto accessways and beach parking, along Highland Avenue.*

POLICY I.B.1: *The City shall encourage public transportation service to mitigate excess parking demand and vehicular pollution. All transportation/congestion management plans and mitigation measures shall protect and encourage public beach access.*

POLICY I.B.3: *The City shall encourage pedestrian and bicycle modes as a transportation means to the beach.*

POLICY I.B.6: *The Strand shall be maintained for non-vehicular beach access.*

POLICY I.C.2: *The City shall maximize the opportunities for using available parking for weekend beach use.*

POLICY I.C.3: *The City shall encourage additional off-street parking to be concentrated for efficiency relative to the parking and traffic system.*

POLICY I.C.9: *Use of existing public parking, including, but not limited to, on-street parking, the El Porto beach parking lot, and those parking lots indicated on Exhibit #9 (in the certified LCP), shall be protected to provide public beach parking...*

POLICY: *The beach shall be preserved for public beach recreation. No permanent structures, with the exception of bikeways, walkways, and restrooms, shall be permitted on the beach.*

PROGRAM II.A.6: *Consider the establishment of alternative transportation systems and park-mall facilities, including a shuttle service to the El Porto beach area.*

PROGRAM II.B.13: *Improve information management of the off-street parking system through improved signing, graphics and public information and maps.*

PROGRAM II.B.14: *Provide signing and distribution of information for use of the*
POLICY 1.C.17 *Civic Center parking for beach parking on weekend days.*

The proposed project is a temporary sporting event that will affect part of the public beach and its public parking supply. For nine days, from set-up to take-down (August 4-12, 2003), the general public will be excluded from using the sandy beach area and public volleyball courts on the event site, except to watch the proposed volleyball tournament and participate in the proposed event's interactive activities. The proposed event will occupy a 300-foot wide portion of the approximately 350-foot wide beach area that exists between the bike path and mean high tide line (MHTL). In order to preserve lateral public access along the shoreline, the applicant will maintain a fifty-foot wide corridor on the beach between the sea and the event site (Exhibit #3). This fifty-foot wide corridor must be kept clear of structures and other obstructions. Direct unobstructed vertical access to the shoreline will be maintained at the southern end of the event site and on the beach area north of the pier.

Although the proposed event will not physically prevent pedestrian access to the water, it will impact the public's ability access and use the coast by restricting the use of a portion of the

sandy beach to a specific group of people: the organizers, participants and spectators of the proposed volleyball tournament. However, the Commission has previously found that temporary events, and specifically volleyball tournaments that are open (free) to the general public, can be held in a manner that is consistent with the public access and recreation policies of the Coastal Act, even though such events typically involve the exclusive use of sandy beach area. In fact, after several public hearings and a public workshop for temporary events on the beach, the Commission adopted specific guidelines to exclude temporary events similar to the Manhattan Beach Open from coastal development permit requirements. [See *Coastal Commission Guidelines for the Exclusion of Temporary Events from Coastal Development Permit Requirements*, Adopted 1/12/93.]

In the City of Manhattan Beach, however, the certified LCP controls the permitting requirements for development and use of the beach. The *Guidelines for the Exclusion of Temporary Events from Coastal Development Permit Requirements* do not supercede the requirements of the certified LCP. The Manhattan Beach certified LCP does not exclude or exempt temporary events from local coastal development permit requirements.

In prior appeals of City of Manhattan Beach local coastal development permit approvals, the Commission has found that the annual Manhattan Beach Open Volleyball Tournament is a temporary event that (as previously conditioned) can be found to be consistent with the certified LCP and the public access and recreation policies of the Coastal Act. [See Appeal/Permit No. A-5-MNB-97-84 (1997 Manhattan Beach Open), Appeal No. A-5-MNB-99-111 (1999 Manhattan Beach Open) and Appeal No. A-5-MNB-01-343 (2001 Manhattan Beach Open).] The Commission found that temporary limitations on the general public's use of a limited beach area, and the temporary structures associated with the Manhattan Beach Open, do not necessarily conflict with the certified LCP or Coastal Act policies because the event provides the public with a unique type of recreational opportunity (i.e., a professional sporting event with free public admission) and it exists only for a few days. After the conclusion of the event, the temporary structures are quickly removed from the beach (usually within one day), and the general public's use of the area is restored.

In fact, the annual Manhattan Beach Open Volleyball Tournament (with no admission fee) is a type of land use that is specifically allowed on the beach by the certified LCP. The three-acre event site on the sandy beach south of the Manhattan Beach Pier, along with the rest of the beach, is designated in the certified LCP as an Open Space (OS) land use district. Section A.24.030 of the certified LCP, which lists the land use regulations for the OS land use district, allows "sporting events for which no admission is charged." Therefore, the proposed event is an allowable use pursuant to the certified Manhattan Beach LCP, with the caveat that no admission is being charged to attend the event. The question of whether this year's proposed event's restricted Beach Club/VIP seating area constitutes a charge for admission is addressed in the following section.

D. Free Admission vs. Paid Admission

The certified LCP is clear in regards to sporting events on the beach (OS land use district). The certified LCP allows "sporting events for which no admission is charged." Sporting events that do charge admission are not an allowable use on the beach. The City Agreement for the proposed event, attached as Exhibit #6 to this staff report, states that, "No admission shall be charged" (Exhibit #6, p.2). The applicant is not proposing to charge admission and is not selling tickets to the proposed event (Exhibit #4, p.5).

The applicant is, however, selling AVP Beach Club packages for the event that include access to restricted seating areas around the center court. The AVP's website includes information about its AVP Beach Club packages (Exhibit #5). The applicant makes a distinction between charging admission to the event and selling membership to restricted areas within the event. According to the AVP, all seating (3500 seats) would be available free of charge to the general public, except for 620 seats that would be reserved as preferred Beach Club/VIP seats. The reserved seating area, situated on the center court risers and in the top five rows of the center court's southern bleacher, would be available to VIPs and persons who pay a fee to join the AVP Beach Club. Therefore, admission to the event is free to the general public, but the additional perks that come with being a member of the AVP Beach Club are not free.

In any case, the general public would be excluded from the restricted seating areas around the center court. Exclusive seating arrangements at temporary events is one of the issues that the Commission addressed in the public hearings and public workshop that resulted in the adoption of the Commission's *Guidelines for the Exclusion of Temporary Events from Coastal Development Permit Requirements*. The Commission guidelines do allow some limited preferred or exclusive seating arrangements as part of temporary events on the beach. The issue with the proposed event is the ratio between the available seating being reserved for VIPs and members of the AVP Beach Club, and the available seating for free access by the general public. Even though the public access and recreation policies of the Coastal Act and the certified LCP is the standard of review for this coastal development permit application, the Commission's *Guidelines for the Exclusion of Temporary Events from Coastal Development Permit Requirements* provide the Commission with guidance in regards to the proper ratio between free public seating and reserved seating for VIPs and members of the AVP Beach Club.

The Commission's *Guidelines for the Exclusion of Temporary Events from Coastal Development Permit Requirements* allow the Executive Director to exclude most temporary events from coastal development permit requirements, except for those that meet all of the following criteria:

- a. The event is held between Memorial Day weekend and Labor Day; and,
- b. The event occupies all or a portion of a sandy beach area; and,
- c. The event involves a charge for general public admission or seating where no fee is currently charged for use of the same area (not including booth or entry fees).

The guidelines also allow the Executive Director to exclude from permit requirements temporary events meeting all of the above criteria when:

- d. The fee is for preferred seating only and more than 75% of the provided seating capacity is available free of charge for general public use; or...*[criteria e, f & g not listed here]*.

The *Guideline's* provision that allows temporary events to be excluded from permit requirements if more than 75% of the seating is available free of charge for general public use is applied in this case as a limit on the amount of the seating that may be reserved for VIPs and members of the AVP Beach Club. Therefore, the Commission finds that the applicant shall not charge any admission to the proposed event, but the applicant is permitted to sell preferred seating for up to 24% of the total amount of seating capacity. More than 75% of the provided seating capacity shall be available free of charge for general public use.

Special Condition Three states:

No admission fee shall be charged to attend the 2003 Manhattan Beach Open Volleyball Tournament. The general public shall be provided with free public access to viewing and seating areas within the event area. At least 76% of the total seating capacity at each court (including bleachers, sand areas and viewing platforms/risers surrounding each court) shall be available to the general public for free on a first-come, first-served basis. The remaining 24% (or less) of the total seating capacity at each court (including bleachers, sand areas and viewing platforms/risers surrounding each court) may be reserved for preferred Beach Club/VIP seating and/or access. The applicant is permitted to collect fees to access to the preferred seating areas.

The applicant states that all seating would be available free of charge to the general public, except for 620 of the total 3,500 seats at the center court which would be reserved as preferred Beach Club/VIP seats (Exhibit #4, p.4). The proposed 620 for-fee seats represent 18% of the center court's total seating capacity ($620/3500 = 0.1771\%$). As conditioned to prohibit admission fees and to protect at least 76% of the total seating capacity for free general public use, the Commission finds that the proposed preferred seating plan can be found to be consistent with the certified LCP and the public access and recreation policies of the Coastal Act.

E. Public Access to the Pier

The City operates and manages the Manhattan Beach Pier and parking lots under an agreement with the State of California Department of Recreation and Parks (the 1988 Pier Operating Agreement). In a letter dated May 15, 2003, the Department of Recreation and Parks requests that the City review the proposed event in relation to the pier operating agreement in order to address the issues associated with the proposed event's use of the pier and the public beach parking lots (Exhibit #9).

The applicant proposes to place two sets of bleachers on the pier, one set along the southern railing of the pier and another set near the pier entrance (Exhibit #3). The proposed bleachers would seat about 400 persons, and would allow the general public (for free) to view the center court from the elevated seating on the pier. In past years, the general public could view the center court from the pier, but there were no bleachers placed on the pier. In the past, there have been some problems congestion and crowd control at the entrance to the pier, near the location of the proposed bleachers.

The applicant states that the proposed bleachers will improve public access because the seating would be to the public for free viewing of the center court. The appellants assert that the applicant wants the bleachers on the pier to serve as a background for the television broadcast of the center court.

The Department of Recreation and Parks does not object to the placement of bleachers on the pier if access is adequately protected (Exhibit #9). The proposed bleachers would occupy about half of the pier's thirty-foot width, leaving only a fifteen-foot wide passage. Fifteen feet is too narrow of a passage on a thirty-foot wide pier. The placement of bleachers on the pier would hinder public access by narrowing the width of the pier area that is usually open for pedestrian passage. A fifteen-foot wide passage would not be of sufficient width to allow an emergency vehicle to pass through area if the area becomes congested with people, as expected. The proposed narrowing of the pier passage, which is the only entrance and exit to the pier, would increase the possibility of pier closure due to crowd control safety and issues. Therefore, for safety reasons and to maximize public access opportunities (e.g. minimize the potential for closure), the width of the passage on the pier should remain as wide as possible. Special Condition Five prohibits the placement of bleachers, tents, vehicles (except for emergency vehicles), fences, barriers or other structures on the pier. Only as conditioned can the proposed event be consistent with the certified LCP and the public access and recreation policies of the Coastal Act. The applicant's request to have exclusive use of the public beach parking supply located at the base of the pier is addressed in the following section.

F. Traffic and Parking

In regards to the public beach parking supply, the crowds generated by the proposed event, in association with the event's reserved use of public parking areas, will negatively affect beach goers' ability to find a parking space near the beach. The Commission has consistently found that a direct relationship exists between the provision of adequate parking and availability of public access to the coast. The proposed event, in mid-summer, is expected to attract over 6,000 persons a day to an already crowded beach area. The additional visitors drawn by the proposed event will overburden the limited beach parking supply. There is simply not enough public parking available in the downtown area to accommodate all of the people who attempt to visit Manhattan Beach during summer weekends. Add to this the City's reservation for the AVP of 141 of the 161 parking spaces closest to the pier, and the ability to find public parking near the pier will be nearly impossible.

As required by Policies 1.A.2, 1.B.1, 1.C.2 and 1.C.17 (Program II.B.14) of the certified LCP, the City is required to implement safe and efficient traffic flows, encourage transportation service, maximize parking for weekend beach use, and provide signing and information to do so. The applicant states that it has been working with the City to develop a parking and traffic management plan that involves a remote parking supply (over 1,500 parking spaces) at an inland parking lot, and a free shuttle bus service to provide public transportation between the remote parking supply and the downtown area (Exhibit #4, ps.2-7).

Special Condition Four requires the applicant to implement a traffic and parking management plan and free beach shuttle bus as proposed and described in the letter dated May 19, 2003 and attached as Exhibit #4 of the staff report. The condition, however, restricts the amount of public beach parking that the applicant may reserve for the proposed event. The applicant proposes to reserve three of the four public beach parking lots located at the pier (141 of the 161 parking spaces) for use by staff and sponsors (Exhibit #4, p.6). The City Agreement authorizes the AVP to reserve of all 71 parking spaces located in the lower south and lower north public beach parking lots, plus one of the two upper pier lots, and the on-street parking on Manhattan Beach Boulevard (below Ocean Drive) for use by the AVP (Exhibit #4, p.6).

In the letter dated May 15, 2003, the Department of Recreation and Parks states that during peak-use seasons (i.e., May through September) it is standard to allow the reservation of no more than half of the parking supply (Exhibit #9). The rest of the parking supply would remain available for use by the general public on a first-come, first-served basis, as it is normally available. Therefore, Special Condition Four allows the AVP to reserve only the two lower pier parking lots during the tournament (Thursday through Sunday) and only one of the lower pier parking lots on the set-up up and take-down days. All existing handicapped parking spaces in the parking lots shall remain available for use by persons with vehicles displaying a handicapped placard. All other parking spaces shall remain available to the general public on a first-come, first served basis until they are filled to capacity. Only as conditioned to minimize the exclusive use of public parking can the proposed event be found to be consistent with the certified LCP and the public access and recreation policies of the Coastal Act.

In order to replace the public parking reserved by the AVP in the pier parking lots and to provide public parking to meet the increased demands generated during the tournament, Special Condition Four also requires the applicant to provide the proposed remote parking supply (over 1,500 parking spaces) and to operate the proposed free beach shuttle bus for AVP guests and the general public. The remote parking supply and free shuttle bus service is necessary to mitigate the increase in vehicle congestion, parking demand and vehicular pollution caused by the large numbers of persons who will drive to the area to attend the annual volleyball tournament.

The applicant has proposed to provide the proposed remote parking supply and to operate the proposed free beach shuttle bus only on Saturday and Sunday of the proposed four-day event, but has requested the use of the public beach parking supply for all four days of the tournament (Thursday through Sunday) as well as the set-up and take-down days (Exhibit #4). With the proposed event occurring in mid-August when most schools are out and when many people take vacations, the need for public beach parking will be apparent throughout the week, not just on

the weekend. Therefore, the Commission is limiting the amount of parking the AVP is permitted to reserve prior to the start of competition on Thursday, August 7, 2003 (and also is limiting the amount of parking reserved during the tournament). The Commission is also requiring the applicant to provide the remote parking supply and to operate the proposed free beach shuttle bus for AVP guests and the general public on Thursday, August 7 and continuing through Sunday, August 10, 2003.

Special Condition Four also protects the parking spaces normally reserved for handicapped persons, and requires signage and newspaper and radio advertisements to inform the public of the free remote parking and shuttle bus service. The signs must be posted and advertising campaign must commence prior to the start of the tournament in order to adequately inform the public of their parking options prior to arriving at the beach during the days of the tournament. Only as conditioned to mitigate the effects of the exclusive use of public parking on public beach access can the proposed event be found to be consistent with the certified LCP (specifically LCP Policy I.C.2 which requires the City to maximize the opportunities for using available parking for beach use) and the public access and recreation policies of the Coastal Act.

G. Visual Resources and Noise

The temporary structures and advertising associated with temporary events like the Manhattan Beach Open are highly visible and block public views of the shoreline, but they do not conflict with the certified LCP or Coastal Act policies because they exist on a temporary basis for only a few days. After the event, the structures are quickly removed from the beach (within one day) and the public's view of the shoreline is restored. Therefore, the scenic resources of the coastal zone are protected from any long-term or permanent negative impacts.

While noise control is not an issue addressed by certified LCP policies, the appellants have raised it as an issue. Specifically, the appellants asserted that the local approval does not require adequate noise control. The City Agreement requires that "All amplified speakers will be placed facing to the west" (Exhibit #6, p.2). Therefore, the City has addressed noise-control as an issue.

H. Water Quality

The certified Manhattan Beach LCP contains the following policies to protect marine resources from the effects of polluted runoff.

POLICY III.3: *The City should continue to maintain and enforce the City ordinances that prohibit unlawful discharges of pollutants into the sewer system or into the tidelands and ocean. (Title 5, Chapter 5, Article 2; Chapter 8).*

POLICY III.4: *The City should continue to maintain and enforce the City ordinances that prohibit disposal of oils or refuse in the ocean or on beaches. (Title 12, Chapter 6).*

POLICY III.7: *The City should continue to maintain enforcement codes for littering waters or shore. (Title 10 Public Health and Safety Code, Section 374.7).*

POLICY III.8: *he City should continue to have programs to educate both staff and the public on the value and protection of the marine environment.*

The proposed event poses a potential source of pollution due to trash generation, spillage from portable restroom facilities, and vehicles driving on the beach. The discharge of polluted runoff onto the sand and into to coastal waters can cause cumulative adverse impacts to water quality.

Therefore, Special Condition Nine require the applicant to (each day) remove and legally dispose of all trash, waste, oil, grease, and other materials that may be deposited on-site incidental to the volleyball tournament, all associated activities, and the general public's use of the event site, pier and adjacent parking facilities. Special Condition Eight requires that all temporary improvements permitted herein shall be removed in their entirety and the site restored to its pre-existing condition by no later than 6:00 p.m. Tuesday, August 12, 2003. As conditioned, the proposed event is consistent with the certified LCP and past Commission action with regards to water quality requirements and will minimize water quality impacts.

I. California Environmental Quality Act

Section 13096 Title 14 of the California Code of Regulations requires Commission approval of a coastal development permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project, as conditioned, has been found consistent with the Manhattan Beach certified LCP and the public access and recreation policies of the Coastal Act. All adverse impacts have been minimized by the recommended conditions of approval and there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found consistent with the requirements of the Coastal Act to conform to CEQA.

End/cp